

**CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE
CERTIFIED FARMERS' MARKET ADVISORY COMMITTEE
Meeting Minutes from September 8, 2003
Torrance, California**

MEMBERS

Jerry Gonce, Chair
Cato Fiksdal
Fred Kosmo
Theodore Loewen
Jim Russell
Gene Etheridge
Lynn Bagley
Harry Brown-Hiegel
Howell Tumlin
Mary Lou Weiss
Scott Hudson
Karol Jo Kappel
Doug Hayden

ALTERNATES/NON VOTING

Donna Sherrill
Gale Cunningham
Joel Kiff
Mary Hillebrecht
James Murez
Jane Allen

MEMBERS EXCUSED

Scott Beylik
Richard Youngblood
Edith Clark
Gail Hayden
Greta Dunlap

GUESTS

Jerrie Watkins
David Kruger
Polly Ward
Dale Whitney
Laura Avery
Stephen Vodantis

CDFA

Janice Price

ITEM 1: ROLL CALL

Jerry Gonce called the meeting to order and the pledge of allegiance was recited. Janice Price called roll and a quorum was established.

ITEM 1A: INTRODUCTION OF GUESTS

Introductions were made.

ITEM 2: APPROVAL JULY 14, 2003 MEETING MINUTES

MOTION: Mary Lou Weiss moved to approve the minutes without corrections. Jane Allen seconded. The motion passed unanimously.

ITEM 3: APPROVAL OF AGENDA

MOTION: Joel Kiff moved to approve the agenda. Mary Lou Weiss seconded. The motion passed unanimously.

ITEM 4: REPORTS

A. CFM REMITTANCE FEE AND DELINQUENT MARKET REPORT: 1ST QUARTER & 2ND QUARTERS, 2003 – JANICE PRICE

Nothing to report at this time.

B. CDFA BUDGET REPORTS: JUNE & JULY 2003 – JANICE PRICE

The Program revenue has increased from \$163,000 to \$170,000 since the fee change in early 2000. There is now a negative cash balance of \$74,640.

C. AGRICULTURAL COMMISSIONERS

CACASA's winter conference is scheduled for the first week in November at the Hawthorne Suites in Sacramento.

Cato Fiksdal presented an award to Mary Lou Weiss from the County of Los Angeles, Board of Supervisors. The award was in recognition of her extensive work in the farmers' market industry.

D. LONG RANGE PLANNING SUB-COMMITTEE – JANE ALLEN, CHAIR

Jane Allen passed out a draft of the cover letter and market surveys to the committee. Doug Hayden gave a target date of 14 days for the surveys to be ready for final review. When approved, the surveys will go out to the Markets, Producers, and Agricultural Commissions.

It was suggested that the survey be put on the web. A discussion ensued. It was decided that this subcommittee will meet to discuss the matter and will be ready to make a recommendation and present the finalized surveys at the next CFMAC meeting.

E. FINANCE SUB-COMMITTEE – SCOTT BEYLIK, CHAIR

Nothing to report at this time.

F. NURSERY STOCK/CUT FLOWERS SUB-COMMITTEE – MARY LOU WEISS, CHAIR

Nothing to report at this time.

G. MARKET STANDARDS/MANAGER CERTIFICATION SUB-COMMITTEE –
HOWELL TUMLIN, CHAIR

Nothing to report at this time.

H. ENFORCEMENT/MATRIX SUB-COMMITTEE – SCOTT HUDSON, CHAIR

This committee has met and will report under “Committee Business” later in the meeting.

I. NON-CERTIFIABLE AGRICULTURAL PRODUCTS SUB-COMMITTEE – JIM RUSSELL,
CHAIR

The subcommittee met July 9, 2003, and August 18, 2003, to discuss possible modifications to the California Code of Regulations, Section 1392.2(m); definition of noncertifiable agricultural products. The subcommittee came up with possible modifications; however, they did not vote on the language changes. After CDFA's jurisdiction is determined over processed products, the sub-committee will further discuss these modifications.

J. CHAIRMAN'S REPORT – JERRY GONCE

Nothing to report at this time.

ITEM 5: COMMITTEE BUSINESS

A. CFMAC's REQUEST FOR RELEASE OF CDFA's LEGAL OPINION ON LIMITING
NON-AGRICULTURAL VENDORS – HOWELL TUMLIN

Valerie Brown replied to the letter that Howell Tumlin sent to the Secretary requesting the release of CDFA's legal opinion on limiting Non-Agricultural vendors. In Ms. Brown's letter dated August 11, 2003, she explained that the attorney-client privilege would prevent CDFA from releasing their written legal opinion. However, she stated that a member of CDFA's legal staff could attend a future meeting to discuss the matter with the CFMAC members.

Janice Price suggested that questions be submitted for the attorney, prior to the meeting that he will attend, so that all research can be done and answers can be provided at the meeting. Questions for the attorney can be sent to Janice until September 15, 2003.

B. LONG RANGE PLANNING SUB-COMMITTEE – JANE ALLEN

1. Surveys: Manager, Producer, and Agricultural Commissioner

This agenda item was discussed earlier in the meeting. No other information or questions at this time.

2. Survey Cover Letter

The cover letter for the Manager, Producer, and Agricultural Commissioner surveys was discussed.

MOTION: Jim Russell moved to approve the cover letter. Lynn Bagley seconded. The motion passed unanimously.

3. Mission Statement

“To obtain a picture of the industry from its participants as to where we are in our development, our successes and challenges, so that a direction for the industry’s future can be developed.”

Howell Tumlin felt the mission statement was not broad enough to cover all of the endeavors that this subcommittee was set up to investigate/accomplish. Laura Avery explained that she would like the mission statement to have a sentence regarding the efforts to ensure farmers are able to market the agricultural products of their own production.

A revised mission statement will be presented for approval at the December 8, 2003, committee meeting. The revised statement, and all background documents that need to be mailed out with the agenda for the next meeting, will have to be to Janice by November 17, 2003.

C. NON-CERTIFIABLE AGRICULTURE PRODUCTS SUB-COMMITTEE MISSION STATEMENT – JIM RUSSELL

“To formulate changes to the law and regulations that will facilitate the lawful sale and regulation of processed products and other noncertifiable products in certified farmers’ markets.”

Lynn Bagley asked that "...of processed products..." be changed to "...of processed agricultural products...". Also that "...other noncertifiable products..." be changed to "...other noncertifiable agricultural products...".

MOTION: Jim Russell moved to approve the mission statement as amended. Lynn Bagley seconded. The motion passed unanimously.

D. NURSERY STOCK/CUT FLOWER SUB-COMMITTEE MISSION STATEMENT – MARY LOU WEISS

"The intent of these regulations is to ensure that all plants that are sold at the Certified Farmers' Market have been grown by the farmer from seed, cuttings, plugs or propagation."

Jim Russell pointed out that the mission statement gives a definition of the regulation; however, it does not give a definition of the purpose of the subcommittee.

Howell Tumlin proposed that the mission statement be changed to:

"The intent of the subcommittee is to propose regulatory changes to ensure that all plants that are sold at the Certified Farmers' Market have been grown by the farmer from seed, cuttings, plugs or propagation."

MOTION: Howell Tumlin moved to approve the mission statement as amended. Jim Russell seconded. The motion passed unanimously.

E. JURISDICTION ON NON-CERTIFIABLE AGRICULTURAL PRODUCTS: QUESTIONS – JIM RUSSELL/ HOWELL TUMLIN

The committee is seeking legal interpretation regarding the jurisdiction of non-certifiable products. Section 47001(a) of the Food and Agricultural Code states, "the Secretary may adopt regulations...of all types of California agricultural products..."

The first area needing clarification concerns CDFA's jurisdiction, or lack thereof, over the common practice of the certified farmers' markets to create a "non-certified section" where items that would not otherwise be lawful are sold. The second area is defining what processed agricultural products and prepared food items can be sold in certified farmers' markets today. Janice Price will seek the assistance of CDFA legal office in this matter.

F. ENFORCEMENT/MATRIX SUB-COMMITTEE – SCOTT HUDSON

1. Mission Statement

“To identify, study, and discuss Direct Marketing enforcement issues and to make recommendations regarding these issues to the Certified Farmers’ Market Advisory Committee”.

MOTION: Jim Russell moved to approve the mission statement as read. Lynn Bagley seconded. The motion passed unanimously.

Karol Jo Kappel suggested that the phrase, “The intent of the subcommittee is”, be added to the beginning of the mission statement.

MOTION: Karol Jo Kappel moved to approve the mission statement as amended. Scott Hudson seconded. The motion passed unanimously.

2. Draft Load List

While speaking with the Market Managers, Scott Hudson found that load lists are used for purposes other than just to meet the regulatory requirements. Scott reported on the draft of the new Standardized Certified Producer Load List. He suggested that the markets use this as a boiler plate and then add their requirements to the form, such as amount brought in, stall fees, etc.

A discussion ensued regarding some of the individual farmers’ market requirements. Scott will get copies of each counties’ certificates so that this subcommittee can get an idea of what other information needs to be added to the load lists. The subcommittee will present a modified load list form at a future meeting.

3. CFM Certificate Regulation Proposal

Janice Price reported that in two different counties, over ten CFMs were operating without a current market certificate. After reviewing the regulations, it was found that there is no current requirement that markets in operation possess a market certificate.

While amending the Direct Marketing Administrative Civil Penalty Matrix to include the proposed regulation, it was suggested that non-compliances be considered a serious violation. Also suggested, was that a fine of \$410 - \$1000 be levied for operating a CFM without a certificate.

Adopt Section 1392.4 (h) to read:

"Section 1392.4 (h) Conditions of Direct Marketing

(h) The operator of a certified farmers' market shall have a current valid certified farmers' market certificate when operating a certified farmers' market."

MOTION: Mary Lou Weiss moved to approve the amendment and to add said amendment to the Administrative Civil Penalty Matrix. Jim Russell seconded. The motion passed unanimously.

4. Amended Administrative Civil Penalty Matrix – Section II, CFM Violations, Item 19

See motion in agenda item F.3. above.

G. NEW BUSINESS

1. SB 534 – Howell Tumlin

This bill is sponsored by the United Farm Workers and would prohibit the use of short-handled hand tools in agricultural operations. Janice Price reviewed the Legislative website to verify the status of the bill. There has been no activity or action taken on this bill since July 2, 2003.

2. SB 1726 – JANICE PRICE

This bill would require the market operators to pay a late penalty charge if their quarterly fees are delinquent. There has been no activity on this bill since it was introduced in March 2003. If the bill is passed the department would be required to adopt an emergency regulation to require this penalty fee. The committee previously voted to adopt the late penalty fee at \$100.

3. SB 934 – JANICE PRICE

This bill would allow nonprofit agricultural cooperatives to utilize the same exemptions as the certified farmers' market program, and would allow the cooperatives to sell their members' products. There has been no activity on this bill since it was introduced in February 2003.

ITEM 6: MEMBER ROUNDTABLE DISCUSSION – JERRY GONCE

Mary Lou Weiss would like the committee to pick the meeting dates for next year so that meeting rooms can be reserved in advance. By order of the chairman, the following will

be the tentative dates of next year's meetings:

| | | | |
|--------------------|------------------|--------------|---------------|
| January 12, 2004 | March 8, 2004 | May 10, 2004 | July 12, 2004 |
| September 13, 2004 | November 8, 2004 | | |

Lynn Bagley relayed the wish of the Organic Products Advisory Committee to have Janice Price attend one of their future meetings to discuss the issue of organic product regulations as they apply to the certified farmers' market.

Jim Russell would like Janice Price to combine the subcommittee roster with the mission statements. Janice will do so once all the mission statements are finalized.

It was suggested that Gene Etheridge join the Long Range Planning Sub-Committee.

MOTION: Harry Brown-Hiegel moved that Gene Etheridge be added to the Long Range Planning Sub-Committee. Fred Kosmo seconded. The motion passed unanimously.

ITEM 7: NEXT MEETING DECEMBER 8, 2003 – SACRAMENTO

The next meeting will be held at the California Farm Bureau in Sacramento.

ITEM 8: NEW AGENDA ITEMS – JERRY GONCE

Nothing at this time.

ITEM 9: ADJOURNMENT

MOTION: Jim Russell moved that the meeting be adjourned. Mary Lou Weiss seconded. The motion was passed unanimously.

Respectfully submitted by:

Janice Price, Supervisor
Certified Farmers' Market Program
Inspection and Compliance
Inspection Services